

**CITY OF MORGAN HILL  
JOINT REGULAR CITY COUNCIL AND  
REDEVELOPMENT AGENCY MEETING  
SPECIAL MEETING OF THE MORGAN HILL ECONOMIC  
DEVELOPMENT CORPORATION**

**MINUTES- MARCH 23, 2011**

**CALL TO ORDER**

Mayor Tate called the City Council meeting to order at 7:02 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members: Tate, Carr, Constantine, Librers, Seibert,  
Absent: Council Members: None

**DECLARATION OF POSTING OF AGENDA**

Deputy City Clerk Drimakis certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

Led by Mayor Tate.

**PROCLAMATIONS / RECOGNITIONS / INTRODUCTIONS**

None.

**PRESENTATIONS**

None.

**CITY COUNCIL REPORTS**

Mayor Tate announced our sister city of Mizuho in Japan has not been impacted by the earthquake, but there has been a relief fund set up for the victims of the tsunami through our sister city at South Valley National Bank. Mayor Tate also announced that his monthly coffee event on April 9, 2011, at 10:00 a.m., will be held at Hot Java and his monthly lunch with the seniors will be on April 15, 2011, at the Senior Center.

**CITY MANAGER'S REPORT**

City Manager Tewes introduced Tom Haglund, City Administrator of the City of Gilroy.

Mr. Haglund commented on the tragic loss at the death of one of the City of Gilroy public works employees, David Vogel. Mr. Haglund expressed the appreciation and gratitude of the City of Gilroy for Morgan Hill's support during a difficult time. He stated that City Manager Ed Tewes was one of the first to reach out and offer assistance to the City of Gilroy. He also offered positive comments regarding the solidarity displayed by the Morgan Hill City Council and staff.

City Manager Tewes pointed out additional supplemental items, noting that the recommended actions on all items remain the same and that the supplemental items will be explained further when the agenda items come up for discussion.

### **CITY ATTORNEY'S REPORT**

City Attorney Wan had no reports.

### **OTHER REPORTS**

None.

### **PUBLIC COMMENT**

Mayor Tate opened the public comment period at 7:08 p.m.

Garry Richard Arnold spoke to Council regarding the danger of cities and counties not making their own policy and contracting with the World Bank. He also urged Council to stay independent.

Mayor Tate closed the public comment period at 7:13 p.m.

## ***City Council and Redevelopment Agency Action***

### **ADOPTION OF AGENDA**

Mayor/Chair Tate announced that there were no changes to the Agenda.

**Action:** *On a motion by Council/Agency Member Constantine and seconded by Council/Agency Member Carr Adopted the Agenda as posted. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

## ***City Council Action***

### **CONSENT CALENDAR:**

**Action:** *On a motion by Council/Agency Member Siebert and seconded by Council/Agency Member Constantine Approved the City Council, Redevelopment Agency and Joint City Council and Redevelopment Agency Consent Calendar Items 1-4. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

*Mayor Pro-Tem Carr recused himself from Item 5 due to living within 500 feet, Approved Redevelopment Agency Consent Calendar Item 5. The motion passed by the following vote: Ayes: 4, Noes: 0, Absent/Abstain: 1.*

### **1. FINAL MAP APPROVAL FOR MILANO PHASE I (TRACT 10058)**

#### **Recommended Action(s):**

1. **Approved** the final map, subdivision agreement and improvement plans; and
2. **Authorized** the City Manager to sign the Subdivision Improvement Agreement on behalf of the City; and
3. **Authorized** the recordation of the final map and the Subdivision Improvement Agreement.

2. **FINAL MAP APPROVAL FOR SHERIMAR RANCH PHASE I (TRACT 10069)**

**Recommended Action(s):**

1. **Approved** the final map, subdivision agreement and improvement plans; and
2. **Authorized** the City Manager to sign the Subdivision Improvement Agreement on behalf of the City; and
3. **Authorized** the recordation of the final map and the Subdivision Improvement Agreement.

3. **AMEND PROFESSIONAL SERVICES AGREEMENT TO PREPARE CIVIL DESIGN DOCUMENTS FOR THE MADRONE CHANNEL TRAIL PROJECT**

**Recommended Action(s):**

1. **Approved** the attached additional scope of work from Hatch Mott MacDonald in the amount of \$5,400; and
2. **Authorized** the City Manager to execute an amendment to the existing professional services agreement for preparation of design documents for the Madrone Channel Trail Project.

4. **ADOPTED ORDINANCE NO. 2005, NEW SERIES AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R-2(3500)/RPD TO R-1 (4500)/PD AND ADOPT A PRECISE DEVELOPMENT PLAN AND ESTABLISH A PLANNED DEVELOPMENT OVERLAY ZONE FOR A 32-UNIT RESIDENTIAL DEVELOPMENT ON A 4.72-ACRE SITE LOCATED ON THE SOUTH SIDE OF EAST CENTRAL AVENUE BETWEEN CALLE MAZATAN AND BUTTERFIELD BOULEVARD**

**Recommended Action(s):** **Waived** the Reading, and **Adopted** Ordinance No. 2005, New Series, an ordinance of the City Council of the City of Morgan Hill approving a zoning amendment from R-2 (3500)/RPD to R-1 (4500)/PD and adopt a precise development plan and establish a planned development overlay zone for a 32-unit residential development on a 4.72 acre site located on the south side of East Central Avenue between Calle Mazatan and Butterfield Boulevard.

***Redevelopment Agency Action***

**CONSENT CALENDAR:**

5. **CREST AVENUE APARTMENTS ASSIGNMENT AND ASSUMPTION AGREEMENT**

**Recommended Action(s):** **Adopted** Resolution MHRA-341 authorizing the Executive Director to negotiate, prepare and execute and Assignment and Assumption Agreement with South County Housing pertaining to three existing rehabilitation loans on the properties: 17671 (\$19,641), 17677 (\$39,330) and 17683 (\$39,063) Crest Avenue.

*Mayor Pro-Tem Carr recused himself from item 5 due to living within 500 feet of the property.*

***City Council Action***

**OTHER BUSINESS:**

6. **SANTA CLARA VALLEY WATER DISTRICT GROUNDWATER RATE INCREASE  
PROPOSAL FOR FISCAL YEAR 2011/12**

**Recommended Action(s):**

1. **Provide** staff with direction to protest the Santa Clara Valley Water District proposed 2011/12 groundwater rate increase.

**OR**

2. **Take no action** thereby accepting the Santa Clara Valley Water District proposed 2011/12 groundwater rate increase.

Assistant City Manager Leslie Little gave report.

Councilmember Librers asked whether this is an annual increase.

City Manager Ed Tewes provided additional background regarding the City of Morgan Hill having been quite critical of the rate setting process by the Santa Clara Valley Water District (SCVWD) over the past five years and Morgan Hill also made specific recommendations regarding how the process could be improved and how the SCVWD could better calculate the appropriate costs; including recommendations on how to finance the subsidy to agricultural users, which in the City of Morgan Hill's view was inappropriately paid for by municipal and industrial water users. He stated that the SCVWD has changed their practices to follow a more lawful approach to the subsidies and they are now using property tax revenues to provide that subsidy rather than having users pay for it. He further stated that the City also expressed concern over the pace the SCVWD was trying to recover costs they were incurring over perchlorate; the cost recovery program is in the second and final year. City Manager Tewes reported that the SCVWD has forecast that there will need to be about three percent annual increases for the next ten or more years. The SCVWD's authority to establish the rate is designated by the District Act which does not allow for annual increases but rather annual establishment of the fee. He clarified that Council is not being asked to protest the increase but to consider the entire rate which will happen every year until the District Act is revised.

Councilmember Librers asked whether the rate will continue to rise for ten years.

City Manager Ed Tewes confirmed that they have given us a forecast indicating that there will be continual increases for the next ten years.

Councilmember Librers asked whether the rate is negotiable.

City Manager Ed Tewes stated that the rate is similar to water rates established by the Morgan Hill City Council and are established by the governing body of the SCVWD pursuant to proposition 218 which sets forth a protest procedure. He also stated that the City is the owner of wells that could protest. City Manager Ed Tewes explained the governing body of the SCVWD would hold a protest hearing and following the hearing would make a determination to establish the rates at a particular level for the next year.

Councilmember Carr asked City Manager Ed Tewes whether the protesting of this rate is a formal legal action.

City Manager Ed Tewes stated that there is the opportunity to informally comment as the City has done for the past five years or to formally protest the entire rate. City Manager Ed Tewes further affirmed that staff does not recommend a protest.

Councilmember Carr asked staff to explain how this rate is reasonable so that he can justify spending seventy three thousand dollars.

Assistant City Manager Leslie Little confirmed that staff have been working closely with the SCVWD in evaluating how the need for these dollars are generated and how dollars have been invested in the Morgan Hill area in recent times, and with certain improvements done in the area this is a reasonable rate. She once again stated that this is a rate not a rate increase but that it does represent an increase over the previous year.

Councilmember Carr asked whether the SCVWD outlined for us what they had done previously with the rate and our dollars and whether they have shown that based on their projects and deliveries there is a good justification for that rate.

Assistant City Manager Leslie Little stated it also reflected the cost of doing business and what it costs to deliver energy, ongoing overhead and operations, and other things important to their system. Staff firmly believes that the district does use their resources to fund projects in our water zone area in a manner that has been very responsive to us recently.

Councilmember Carr stated there is a change as in the past the SCVWD was not so responsive.

Assistant City Manager Leslie Little agreed that Councilmember Carr was correct.

Mayor Tate opened public comment period 7:21 p.m.

No Public Comment received.

Mayor Tate closed public comment period 7:21 p.m.

Councilmember Carr stated that staff presented what is reasonable and that the SCVWD has met the threshold for asking for an increase in the rate and he greatly appreciates that they have gone through a process that the City thinks is much more of an above the board, transparent and legal process. He stated his concerns regarding an increase with the budget struggles and his concerns whether we are getting value. He stated that he does not think the City should protest, but would like to send a communication to the SCVWD that stresses the difficulty of Morgan Hill to absorb a rate increase when the City has such significant budget issues.

Councilmember Librers asked if the City would have to formally protest in order to negotiate the rate.

Mayor Tate stated that the SCVWD would most likely take comments.

City Manager Ed Tewes stated that the protest would be a formal procedure and if there were sufficient protests then the SCVWD would be unable to enact the rate which would not be good for Morgan Hill because the rate is used to purchase water from the Federal and State water projects that is used to recharge the ground water.

Councilmember Siebert commented on the increase to the South County stemming from the number of dams and stated his gratefulness that the SCVWD has analyzed Coyote and Anderson and is taking steps to strengthen and protect the water supplies. He also stated that Council could ask the district to make a presentation regarding their capital improvement projects the same time next year so that Council can ask questions regarding how the rates are set. He commented on the cost difference of raw water (untreated) provided to Morgan Hill, versus the four times higher cost of treated water provided to the North County. He said that SCVWD should examine their rates and that it would be appropriate for them to make a formal presentation to Council next year.

City Attorney Wan pointed out that the process for input consists of public hearings that will occur on April 19<sup>th</sup> and April 26<sup>th</sup>. He stated that on April 26<sup>th</sup> SCVWD would count the protests and that they could receive comments anytime before that. He confirmed City Manager Tewes earlier comments that if they get fifty percent of well owners or parcel owners protesting then they have to consider another set of rates.

Councilmember Librers asked whether it would be appropriate to attend those meetings or if the City needs to compose comments in writing.

City Attorney Wan stated comments could be made either way.

Mayor Tate suggested that comments be in writing to be made part of the record.

**Action:** *On a motion by Councilmember Librers and seconded by Councilmember Carr **Directed** staff to send a letter with comments regarding Council's concerns to the Santa Clara Valley Water District on the subject of the proposed 2011/12 groundwater rate. The motion passed by the following vote. Ayes: 5; Noes: 0; Absent: 0.*

## ***Redevelopment Agency Action***

### **OTHER BUSINESS:**

#### **7. RESTART MONTEREY ROAD STREETSCAPE DESIGN PROJECT**

##### **Recommended Action(s):**

1. **Consider** restarting the Monterey Road Streetscape Design Project; and
2. **Direct** staff as appropriate.

Business Assistance and Housing Services Director Garrett Toy presented report and provided comments regarding the two supplemental items providing a revised schedule and additional services authorization.

Councilmember Siebert expressed disappointment to Mr. Brian Fletcher that the additional scope item results in additional cost.

Mr. Fletcher stated that he would delete number one and reduce the cost.

Councilmember Siebert requested that staff re-scope additional services.

Councilmember Constantine asked whether in the face of all the actions to secure RDA funds if we have secured enough funds to support the project.

City Manager Ed Tewes stated that the item was brought to Council at this meeting as this might be the last time for the RDA to enter into a contract with a third party. He also stated that the important policy question before the Council at this meeting is whether the Council wants to spend money to develop the design concept knowing that there are some risks as to whether the project could ever be built using RDA funds. He stated that the previous actions have improved the chances but do not guarantee that the RDA would have resources. City Manager Ed Tewes informed Council that the RDA and the City by previous action entered into a cooperative agreement that states that the RDA would reimburse the City from RDA resources for the capital improvement program. The trailer bill that would implement the elimination of redevelopment agencies does appear to provide that bond proceeds can be used for the purposes for which the money was borrowed if an oversight board controlled by the County can be convinced that it is better to proceed with the project than to buy bonds back; and the State Department of Finance can be convinced that it is better for the local community to invest in its infrastructure than it is to try to balance the State budget; and if the State Controller can be persuaded on a similar basis. City Manager Ed Tewes also stated that the City has taken all the reasonable steps to protect the resources generated here in Morgan Hill for the benefit of the City but it is possible that the City will still have to fight for those funds if the trailer bill passes.

Councilmember Constantine asked if there is still \$119,000 that has not been spent and asked what would happen to those funds if they don't get spent.

City Manager Ed Tewes stated that the funds would be added on to the other RDA funds that would be at risk if the trailer bill passes.

Councilmember Constantine asked whether it would be a big risk to continue with the design and then not being able to use it.

City Manager Ed Tewes stated that if Council takes this action there will be a greater degree of comfort that the concept design of this project can be completed because the City would have entered into a third party contract prior to the effective date of the trailer bill.

City Attorney Wan stated it is unclear who would have the authority to approve spending once the trailer bill passes and that it is even questionable whether this oversight committee, or the successor agency will have the authority to recognize any contracts passed after January 1, 2011. He also stated that if there is a contract with a third party there is at least an argument that if contracts are entered into and are being performed then the successor agency needs to continue to honour them, but it is still unclear what the legislation actually states.

City Manager Ed Tewes clarified that in this instance the contract was entered into prior to January 1<sup>st</sup> and this would be to conclude the work that has been placed on hold for a while. He stated staff's perspective is that there is an advantage to concluding the design concept so that questions raised during the community input process could be answered.

Mayor Tate opened the public comment period at 7:41 p.m.

No public comments received.

Mayor Tate closed the public comment period at 7:41 p.m.

Councilmember Carr commented in support of the recommended action because it is important use the dwindling resources. He also stated that the Monterey Road Streetscape has been a critical issue, the design phase is a priority. He further stated that the City may not have the resources to actually build, but unless a design is completed the resources needed are unknown. He commended Councilmember Siebert on saving the City \$7,000 and for asking tough questions of the consultant. He noted that this action has been negotiated to give the City a good design and project and the completed design will assist in making difficult decisions next year.

***Action:** On a motion by Agency Member Carr and seconded by Agency Member Librers Approved restarting the Monterey Road Streetscape Design Project. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

## ***City Council and Redevelopment Agency Action***

### **OTHER BUSINESS:**

#### **8. AWARD PROFESSIONAL SERVICES AGREEMENT TO PREPARE CIVIL DESIGN DOCUMENTS FOR THE HALE AVENUE EXTENSION PROJECT**

**Recommended Action(s): Authorize** the City Manager to execute a consultant agreement with Mark Thomas & Company, Inc. in the amount of \$788,000 for the preparation of design/construction documents for the Hale Avenue Extension Project.

Report provided by Senior Civil Engineer Julie Behzad.

City Manager Ed Tewes added that the item is similar to the last item considered but on this item staff is recommending the completion of an actual design with bid documents for the Hale Avenue Extension Project. He also stated that the issue brought up with the last item also applies to this item but there may be some additional funding sources available for the project that would require the design to be completed prior to applying for such funds.

Councilmember Carr confirmed with Senior Civil Engineer Behzad that the funding source for this project comes from the RDA for both this contract and for the project itself.

Councilmember Librers asked if any of the firms who submitted bids were local and asked whether they would be employing local citizens to complete the work. She stressed her interest and concern on both issues.

Senior Civil Engineer Behzad stated that MH Engineering is a local firm and they would be employing local citizens. She also pointed out that Mark Thomas & Company, Inc. would be employing some of the same local engineers as MH Engineering. She clarified that Mark Thomas & Company, Inc. would be subcontracting with several local firms.

Councilmember Librers asked whether cost was a consideration in awarding the bid.

Senior Civil Engineer Behzad explained that the process consisted of identifying the most qualified and that the fees were provided in a separate sealed envelope; following the selection of the most qualified candidate, the fees are negotiated.



City Manager Ed Tewes noted that the process as described by Senior Civil Engineer Behzad is not only desirable, but also required by State law.

Councilmember Librers inquired whether the other three companies were qualified to perform the work and Senior Civil Engineer Behzad answered that they were.

Councilmember Siebert asked if the fee proposals from the firms not selected were opened as a comparison or if they were returned unopened.

Senior Civil Engineer Behzad answered that staff normally would not open the proposals for those companies not selected, but due to the short time given candidates to submit proposals and the short time staff had to negotiate fees, all envelopes were opened.

Councilmember Siebert asked whether that information is public.

City Attorney Wan stated that once the bid is awarded the information would be public.

Councilmember Siebert asked how close the proposals were in cost.

City Attorney Wan answered that the qualification process is an evaluation of the most qualified firm.

Councilmember Siebert asked what percentage of difference was there between the two most qualified firms and Senior Civil Engineer Behzad answered that the second qualified consultant was within five percent.

Councilmember Siebert inquired whether Mark Thomas & Company, Inc. was able to demonstrate sensitivity and experience in regards to the semi rural area of this project.

Senior Civil Engineer Behzad stated that they have submitted several projects that demonstrated that the firm is capable of handling this type of project.

Councilmember Siebert stated that the examples are in regard to different types of projects than the one under discussion.

Councilmember Constantine asked what criteria were used to pick the recommended firm.

Senior Civil Engineer Behzad explained that there were three major criteria, the firm's qualifications, whether they had introduced any creative ideas in the proposal, and whether they had any past experience in working with the City.

Councilmember Carr commented on the community's sensitivity regarding the project and asked whether the City asked the firms how they would approach or resolve that issue.

Senior Civil Engineer Behzad stated that the recommended firm is aware that there will need to be additional community input and as a result they have retained Apex to assist in the community engagement process. She stated that once they have the conception design it would be brought back to the community to get feedback and following those meetings it would be presented to the Council for approval. She also confirmed that in their proposal Mark Thomas & Company, Inc. included attendance at the community meetings.

Councilmember Carr confirmed with Senior Civil Engineer Behzad that all firms who submitted proposals provided that information.

Councilmember Librers asked for clarification on whether Council must move forward on this item at this meeting or risk losing the funding if the RDA is eliminated.

City Attorney Wan answered that once the legislation is passed the RDA will no longer be able to enter into any new contracts and proposed that if Council approves this item that the contract be entered into between the City; and the contractor contingent on funds being available from the RDA; and add the RDA as a party of the contract.

Councilmember Librers commented regarding her concern that the process happened within such a limited time.

Senior Civil Engineer Behzad stated that there was a week and a half to submit proposals but that staff did not have the opportunity to have a long time to negotiate yet staff did try to make an educated decision within the time available.

Mayor Tate opened the public comment period at 8:02 p.m.

No public comments were received.

Mayor Tate closed the public comment period at 8:02 p.m.

Councilmember Carr expressed his concerns regarding the difficulty in evaluating the firms without information on the criteria or knowledge of the firms and that he must, therefore, judge the process. He stated that he understands the process may have been faster than normal but that everyone went through the same process and staff spent time in determining which firm is most qualified and remarked that the process was sound and fair. He further stated that he saw no reason not to support staff's recommendation to move forward.

Mayor Tate agreed with Councilmember Carr and commented that it was a shame the process had to be fast tracked but that the shame was on the State for putting such pressure on the City. He also expressed his amazement at the amount of work accomplished the past few months to protect the City and stated that this is another instance where the City has had to complete the full legal process quickly and a decision is imperative to protect the City. He also stated his support for staff's recommendation.

Councilmember Siebert commented regarding his experience with the firms who submitted proposals and stated he received a phone call expressing concerns from one of the other firms. He also stated that the process was fair and appropriate and the qualifications selection process was well done. He commented on his experience in a similar situation at another agency and confirmed City Attorney Wan's statements that the selection process can't be made on the basis of cost alone, but that it can be taken into consideration. He offered positive comments regarding the recommended firm but expressed concern the missed opportunity to consider a local firm, MH Engineering. He expressed his uncertainty of whether his colleagues had the same concerns.

City Manager Ed Tewes stated that the City will insist that the contractor be available on a daily basis to meet with citizens and that that factor wouldn't distinguish one from another. He further commented that

prior to that evening he was unaware that one of the other firms had expressed a concern about the award, and regrets not having the opportunity to hear what those concerns were.

With a motion on the floor Councilmember Carr commented on the recommended action as the best course of action but once again expressed his concern on how the process had to be conducted so quickly.

***Action:** On a motion by Council/Agency Member Constantine and seconded by Council/Agency Member Carr Authorized the City Manager to execute a consultant agreement with Mark Thomas & Company, Inc. in the amount of \$788,000 for the preparation of design/construction documents for the Hale Avenue Extension Project. The motion passed by the following vote. Ayes: 4; Noes: 1 (Librers); Absent: 0.*

***Mayor Tate Called for a Recess at 8:09 p.m. and Reconvened the meeting at 8:16 p.m.***

9. **EA-11-06: SANTA TERESA – CITY OF MORGAN HILL**  
**(ENVIRONMENTAL REVIEW FOR SANTA TERESA EXTENSION PROJECT)**  
**Recommended Action(s): Appropriate** funds not to exceed \$323,200 for the environmental review of the Santa Teresa Extension.

Staff report was presented by Senior Planner Rebecca Tolentino.

Councilmember Siebert commented on his attendance at one of the public meetings and that it appeared that much of the traffic analysis had already been done by our consultant and questioned why it appeared in the scope of work that the analysis was going to be so extensive.

Senior Planner Tolentino stated that because they were aware that they might not be able to come back and revise the scope of work and ask for additional funds, the consultant erred on the conservative side. She pointed out that if staff finds that parts of the analysis has already been completed, or is not needed, the City will not be billed for those services.

Assistant City Manager Leslie Little clarified that the consultants were fairly conservative because they did not know if there would be the opportunity to come back on these topics. She further stated that staff intends to go through the scope of services to evaluate how to bring those costs down. She noted that this is a not to exceed contract and that all funds will not necessarily be spent but that it provides an envelope to get the project completed.

Councilmember Siebert stated that it is understandable that the other consultants and/or sub-consultants erred on the conservative side but that the same consultant did much of the work and as the design process progresses the uncertainty becomes less. He stated that he is uncomfortable that the consultant did not propose a lower fee in consideration of the analysis they have already done, and although he is not opposed to approving the item, staff should express concern and look closely.

Assistant City Manager Leslie Little concurred with Councilmember Siebert's comments, and confirmed that staff would closely monitor the issue.

Councilmember Siebert stated it would be appropriate to conduct a peer review of those items.

Councilmember Librers asked why there is a ten percent contingency if they are already erring on the conservative side.

Assistant City Manager Leslie Little clarified that the ten percent contingency is for the entire project and not just for the traffic portion. She stated that the project will be closely monitored and expressed staff's concerns of having a project come up with such speed.

Councilmember Librers stated that she hopes the ten percent contingency will not have to be used.

Councilmember Constantine commented on his support of staff and their efforts on this project and expressed dislike over having to take actions in this hurried manner.

Councilmember Carr asked for explanation on how staff will institute cost controls and how Council should keep its fiduciary responsibility.

Assistant City Manager Leslie Little stated that it is staff's job to provide that information and that an ongoing report can be provided to Council if necessary. She emphasized that due to staff's unease and concerns the project will be closely monitored.

Councilmember Siebert clarified his comments, commended staff for their efforts and expressed his confidence in staff's recommended actions.

Mayor Tate opened the public comment period at 8:26 p.m.

No public comment received.

Mayor Tate closed the public comment period at 8:26 p.m.

City Attorney Wan noted that this item relies on funding from the RDA according to a cooperative agreement the RDA and the City have entered into and will be contingent on that funding being available from the RDA.

**Action:** *On a motion by Council/Agency Member Siebert and seconded by Council/Agency Member Constantine **Appropriated** funds not to exceed \$323,200 for the environmental review of the Santa Teresa Extension. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

**10. TRANSFER OF DOWNTOWN PROPERTIES FROM THE CITY OF MORGAN HILL TO THE MORGAN HILL REDEVELOPMENT AGENCY**

**Recommended Action(s):**

1. City Council to **adopt** a resolution transferring the downtown properties to the Morgan Hill Redevelopment Agency; and
2. Redevelopment Agency Board to **adopt** a resolution accepting the transfer of the downtown properties.

City Attorney Wan explained the supplemental materials.

Staff report was presented by Assistant City Manager Leslie Little.

Councilmember Carr requested explanation on the transfer of properties from the RDA to the City through previous actions by Council and now the transfer of those same properties from the City back to the RDA in relation to the impact the anticipated legislation will have on the RDA.

Assistant City Manager Leslie Little explained that following the transfer of the properties to the RDA, in a separate meeting of the Morgan Hill Economic Development Corporation (MHEDC), the properties will be transferred from the RDA to the MHEDC.

Councilmember Carr confirmed with Assistant City Manager Leslie Little that the timing is based on the two week window for public notice.

City Manager Ed Tewes stated that if the recommended action is passed the documents will be signed and recorded first thing the next morning.

City Attorney Wan briefed the Council regarding the three items on the agenda concerning property transfers and restated the recommended actions for each item as on the agenda.

Mayor Tate opened the public comment period at 8:34 p.m.

No public comment was received.

Mayor Tate closed the public comment period at 8:34 p.m.

***Action:** On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Constantine Adopt Resolution 6410 transferring the downtown properties to the Morgan Hill Redevelopment Agency; and Adopt Resolution MHRA-342 accepting the transfer of the downtown properties. The motion passed by the following vote: Ayes: 5; Noes: 0, Absent: 0.*

## ***City Council and Redevelopment Agency Action***

### **PUBLIC HEARING:**

11. **PUBLIC HEARING TO APPROVE SALE OF DOWNTOWN PROPERTIES FROM THE REDEVELOPMENT AGENCY TO THE MORGAN HILL ECONOMIC DEVELOPMENT CORPORATION (AKA MORGAN HILL DOWNTOWN DEVELOPMENT CORPORATION)**

**Recommended Action(s):**

1. City Council – **Open/Conduct** public hearing; and
2. City Council – **Adopt** Resolution approving the sale of certain downtown properties to the Morgan Hill Economic Development Corporation (MHEDC) in accordance with Health and Safety Code Section 33433 and making findings that 1) the sale or lease of property will assist the elimination of blight; and 2) the sale or lease is consistent with the Morgan Hill Redevelopment Agency Five Year Plan.
3. RDA – **Adopt** Resolution of the Morgan Hill Redevelopment Agency directing the Executive Director to take all actions necessary to implement these resolutions.

Assistant City Manager Leslie Little presented staff report.

City Attorney Wan clarified the information in the supplements to the item and explained that the RDA can't sell property for less than market value for the highest and best use unless a report is created that demonstrates that based on the required use for the developer, and market conditions, that the value is less than current market value. He advised that this property was determined to have nominal value and explained that the City Council would need to make two findings, first that the sale of the property will eliminate blight consistent with the RDA plan, and secondly that one dollar is not less than the fair reuse value consistent with the Downtown Specific Plan and the covenants included in the summary report.

Councilmember Siebert asked when the report was available for public inspection.

Assistant City Manager Leslie Little reported that the report was available the day the notice was posted in the newspaper and has been available for fourteen days.

Mayor Tate opened the public hearing at 8:40 p.m.

No public comments received.

Mayor Tate closed the public hearing at 8:40 p.m.

***Action:*** On a motion by Council/Agency Member Constantine and seconded by Council/Agency Member Carr ***Adopted*** Resolution 6411 approving the sale of certain downtown properties to the Morgan Hill Economic Development Corporation (MHEDC) in accordance with Health and Safety Code Section 33433 and making findings that 1) the sale or lease of property will assist the elimination of blight; and 2) the sale or lease is consistent with the Morgan Hill Redevelopment Agency Five Year Plan, and ***Adopted*** Resolution MHRA-343 of the Morgan Hill Redevelopment Agency directing the Executive Director to take all actions necessary to implement these resolutions. The motion passed by the following vote. Ayes: 5; Noes: 0; Absent: 0.

***Adjourned meeting to the meeting of the Morgan Hill Economic Development Corporation at 8:41 p.m.***

***Reconvened Meeting to the City Of Morgan Hill Joint Regular City Council and Redevelopment Agency Meeting at 8:44 p.m.***

**FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:**

None

## ***City Council Action***

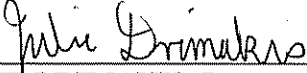
### **CLOSED SESSION:**

City Manager Ed Tewes announced that there is no business for the Council to conduct in closed session.

### **ADJOURNMENT**

There being no further business, Mayor/Chair Tate adjourned the meeting at 8:45 p.m. to the next joint regular City Council and Redevelopment Agency Meeting scheduled for April 6, 2011.

### **MINUTES PREPARED BY:**

  
\_\_\_\_\_  
**JULIE DRIMAKIS, Deputy City Clerk**